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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,546	03/29/2005	Tomoko Aono	1907-0221PUS1	7905
2292 7590 05/15/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER FLETCHER, JAMES A				
ART UNIT 2621		PAPER NUMBER		
NOTIFICATION DATE 05/15/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/529,546

Applicant(s)

AONO ET AL.

Examiner

JAMES A. FLETCHER

Art Unit

2621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-100)
Paper No(s)/Mail Date 03/05 02/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Figures 12 and 13 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Plourde, Jr. et al (7,257,308).

Regarding claims 1 and 7, Plourde, Jr. et al disclose a moving image/audio recording apparatus and method comprising:

- a memory and step for temporarily storing moving image data and/or audio data (Col 18, lines 21-23 "Storage device 373 comprises storage for media

content that can be written to for storage and later read from for retrieval for presentation”);

- a recording unit and step for recording the moving image data and/or audio data in response to an instruction to start recording (Col. 20, lines 17-22 “The media content stored in the TSB 378 will either be deleted...or retained [through election by the user] as a permanent recording” and Col 28, lines 30-31 “The user request can be explicit or implicit based on viewing habits”); and
- an encoding unit and step for encoding the moving image and/or audio in specified encoding conditions (Col. 20, line 67 – Col 21, line 2 “analog video signals are compressed into digital form by the encoder 317 [Fig. 3A], or other digitizing hardware of software”),
- and wherein if the moving image data and/or the audio data from the time which goes back from the time of the instruction to start recording are/is recorded in the recording unit, the time which goes back is subsequent to the time when the encoding conditions are changed to those at the time of the instruction to start recording (Col. 24, lines 4-10 “FIG. 8 represents a live point 430 of 10:30. At this point, the 10:00 media content instance stored in the storage device 373 under filename “A/V file x+5” is over and “A/V file x+5” 406 is closed. A new file, “A/V file x+6” 407, is created for representing the 10:30 media content instance, and a new associated management file is created also”).

Regarding claims 2 and 8, Plourde, Jr. et al disclose a moving image/audio recording apparatus and method comprising:

- a memory and step for temporarily storing moving image data and/or audio data (Col 18, lines 21-23 "Storage device 373 comprises storage for media content that can be written to for storage and later read from for retrieval for presentation");
- a recording unit and step for recording the moving image data and/or audio data in response to an instruction to start recording (Col. 20, lines 17-22 "The media content stored in the TSB 378 will either be deleted...or retained [through election by the user] as a permanent recording" and Col 28, lines 30-31 "The user request can be explicit or implicit based on viewing habits"); and
- a switching unit and step for switching moving image and/or audio to other moving image and/or other audio (Col 10, lines 42-44 "Tuner system 345 can select from a plurality of transmission signals [FIG. 1B] provided by the subscriber television system"),
- and wherein if the moving image data and/or the audio data from the time which goes back from the time of the instruction to start recording are/is recorded in the recording unit, the time which goes back is subsequent to the time when the moving image and/or audio are/is switched to those at the time of the instruction to start recording (Col. 24, lines 4-10 "FIG. 8 represents a live point 430 of 10:30. At this point, the 10:00 media content instance stored in the storage device 373 under filename "A/V file x+5" is over and "A/V file

x+5" 406 is closed. A new file, "A/V file x+6" 407, is created for representing the 10:30 media content instance, and a new associated management file is created also").

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. FLETCHER whose telephone number is (571)272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2623

JAF
8 May 2008